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5 Attorney for IP ADDRESS 76.91.237.15

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

STRIKE 3 HOLDINGS, LLC.

11 Plaintiff,

12 | VS.

13 John Doe subscriber assigned IP address 76.91.237.15

14 Defendants.

No. 5:22-cv-01393-TJH-SP

ANSWER AND AFFIRMATIVE DEFENSES TO FIRST AMENDED COMPLAINT

16 John Doe Defendant IP address 76.91.237.15 ("DEFENDANT") submits this
17 Answer to the First Amended Complaint ("FAC") filed by STRIKE 3 HOLDINGS,
18 LLC. In response to the FAC, defendants answer and allege as follows:

- 20 1. Defendant lacks sufficient knowledge and on that basis denies the
21 allegations in Paragraph 1

22 2. Defendant lacks sufficient knowledge and on that basis denies the
23 allegations in Paragraph 2

24 3. Defendant lacks sufficient knowledge and on that basis denies the
25 allegation in paragraph 3.

26 4. Defendant denies

27

28

- 1 5. Defendant denies any “theft by infringement”
- 2 6. Defendant lacks sufficient knowledge and on that basis denies the
- 3 allegation in paragraph 6.
- 4 7. Admit
- 5 8. Admit
- 6 9. Admit
- 7 10. Admit
- 8 11. Defendant lacks sufficient knowledge and on that basis denies the
- 9 allegation in paragraph 11.
- 10 12. Admit
- 11 13. Defendant lacks sufficient knowledge and on that basis denies the
- 12 allegation in paragraph 13
- 13 14. Defendant lacks sufficient knowledge and on that basis denies the
- 14 allegation in paragraph 14
- 15 15. Defendant lacks sufficient knowledge and on that basis denies the
- 16 allegation in paragraph 15
- 17 16. Defendant lacks sufficient knowledge and on that basis denies the
- 18 allegation in paragraph 16
- 19 17. Admit
- 20 18. Defendant lacks sufficient knowledge and on that basis denies the
- 21 allegation in paragraph 18.

19. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 19.

20. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 20.

21. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 21.

22. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 22.

23. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 23.

24. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 24.

25. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 25

26. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 26.

27. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 27.

28. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 28.

29. Defendant lacks sufficient knowledge and on that basis denies the

1 allegation in paragraph 29.

2 30.Defendant lacks sufficient knowledge and on that basis denies the
3 allegation in paragraph 30.
4

5 31.Defendant lacks sufficient knowledge and on that basis denies the
6 allegation in paragraph 31.
7

8 32.Defendant lacks sufficient knowledge and on that basis denies the
9 allegation in paragraph 32
10

11 33.Defendant lacks sufficient knowledge and on that basis denies the
12 allegation in paragraph 33.
13

14 34.Defendant lacks sufficient knowledge and on that basis denies the
15 allegation in paragraph 34.
16

17 35.Defendant lacks sufficient knowledge and on that basis denies the
18 allegation in paragraph 35
19

20 36.Defendant lacks sufficient knowledge and on that basis denies the
21 allegation in paragraph 36
22

23 37. Defendant lacks sufficient knowledge and on that basis denies the
24 allegation in paragraph 37.
25

26 38.Defendant lacks sufficient knowledge and on that basis denies the
27 allegation in paragraph 38.
28

39.Defendant lacks sufficient knowledge and on that basis denies the
allegation in paragraph 39.

40. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 40.

41. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 41.

42. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 42.

43. Denied

44. Denied

45. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 45

46. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 46 and denies Plaintiff is entitled to any relief.

47 Denied

48. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 48

49 Admit

50. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 50.

51 Daniel

52. Defendant lacks sufficient knowledge and on that basis denies the allegation in paragraph 52.

1 53. Denies

2 54. Defendant lacks sufficient knowledge and on that basis denies the
3 allegation in paragraph 54. As to A-E. This is not sufficient additional
4 evidence under Cobbler-Nevada.

5 55. N/A

6 56. Defendant lacks sufficient knowledge and on that basis denies the
7 allegation in paragraph 56.

8 57. Denied

9 58. Defendant lacks sufficient knowledge and on that basis denies the
allegation in paragraph 58.

10 59. Denied as to each allegation, including (A)-(D).

11 60. Denied Plaintiff is entitled to any relief and as to each item (A)-(F)

12 PRAYER FOR RELIEF – Defendant denies liability and denies that Plaintiff is
13 entitled to any relief against him. Defendant seeks a jury trial and attorney fees and
14 costs under the copyright law.

15 Further, Defendant asserts the following affirmative defenses:

16
17 **FIRST AFFIRMATIVE DEFENSE**
18
19 **(Failure to State a Claim)**

20 1. Defendants allege that each cause of action in the Complaint fails to
21 state a claim upon which relief may be granted against these answering
22 defendants.
23
24

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

2. The Complaint is barred in whole or in part by applicable statutes of limitation.

THIRD AFFIRMATIVE DEFENSE

(Laches)

3. The Complaint is barred in whole or in part by the Doctrine of Laches.

FOURTH AFFIRMATIVE DEFENSE

(Failure to Mitigate Damages)

4. Plaintiff failed to mitigate the damages alleged in the Complaint.

FIFTH AFFIRMATIVE DEFENSE

(Unclean Hands)

5. Plaintiff's claims are barred by plaintiff's own misconduct and inequitable actions.

SIXTH AFFIRMATIVE DEFENSE

(Causation)

17 6. Although the Complaint is groundless and without merit, if the court
18 finds there is a contestable issue, plaintiff is barred from recovery herein in that the
19 conduct of plaintiff and other persons unknown to this answering defendant,
20 constituted a supervening, intervening cause of the damages, injuries and losses
21 allegedly sustained by plaintiff.

SEVENTH AFFIRMATIVE DEFENSE

(Authorization and Consent)

24 7. Defendants are informed and believe and thereon allege that plaintiff
25 and/or her predecessor in interest authorized and consented to the acts and conduct
26 of defendants, and that plaintiff is thereby precluded from maintaining this action, or
27 obtaining judgment herein against these defendants.

EIGHTH AFFIRMATIVE DEFENSE

(Fair Use)

3 21. The complaint is barred because Defendants do not use BitTorrent for
4 commercial purposes and there is no loss to Plaintiff though increased worldwide
5 exposure to their porn videos, and on information and belief, Defendants have likely
6 gained. The balance of the factors weighs in favor of fair use.

8 WHEREFORE, defendants pray for judgment as follows:

9 1. For judgment in favor of defendants and against plaintiff, dismissing
10 plaintiff's Complaint with prejudice;
11 2. For all costs incurred herein;
12 3. For attorney's fees;
13 4. For such further relief as the Court in its discretion deems just,
14 equitable and proper. Defendant seeks a jury trial.

15 | RESPECTFULLY SUBMITTED

16 | DATED this 31st day of January, 2023.

THE LAW OFFICES OF STEVEN VONDTRAN, P.C.

By /s/ SteveVondran

Steven C. Vondran, Esq.
Attorneys for IP 23.243.212.17

CERTIFICATE OF SERVICE

3 | **ORIGINAL** of the foregoing *e-filed* this
4 | 31st day of January 2023, to all registered ECF users:

6 Law Offices of Lincoln Bandlow, P.C.
7 1801 Century Park E. Suite 2400
8 Los Angeles, California 90067
9 **Attn: Lincoln Dee Bandlow, Esq.**
Email: lincoln@bandlowlaw.com

Executed on January 31, 2023, at Phoenix, AZ

By: /s/ Lisa Vondran
Lisa Vondran, Assistant